

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

No. 78/253,725  
the Mark VEGAS

TTAB

THE UNITED STATES  
PLAYING CARD COMPANY

Opposer,

v.

HARBRO, LLC,

Applicant.

Opposition No. 91162078

CERTIFICATE OF SERVICE AND MAILING

I hereby certify that the enclosed Trial Testimony Deposition of Karl Ondersma and Applicant's Exhibits A – G identified therein along with Applicant's Notice of Filing and Service of Testimony of Karl Ondersma, are being deposited with the United States Postal Service as first-class mail in an envelope addressed to:

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
PO Box 1451  
Alexandria, VA 22313-1451

on December 13, 2005; and also certify that a true and complete copy of the Trial Testimony Deposition of Karl Ondersma, Applicant's Exhibits A-G identified therein, and Certificate of Witness Karl Ondersma were served on counsel for Opposer on December 6, 2005 by first-class mail, postage prepaid, to:

Ms. Lynda E. Roesch  
Dinsmore & Shohl LLP  
1900 Chemed Center  
255 East Fifth Street  
Cincinnati, Ohio 45202



12-19-2015

U.S. Patent & TMO/TM Mail Rpt Dt: #22

and Applicant's Notice of Filing and Service of Testimony of Karl Ondersma is being served by first-class mail, postage prepaid to the above noted address for Opposer's counsel on December 13, 2005.

Terence J. Linn  
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THE UNITED STATES PLAYING  
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Opposition No. 91162078

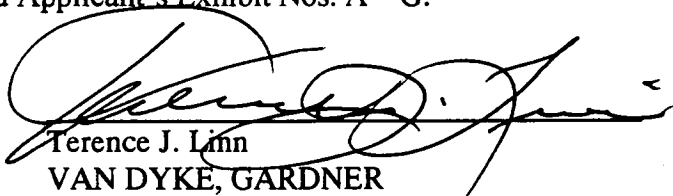
Serial No. 78/253,725

**APPLICANT'S NOTICE TO OPPOSER OF FILING DEPOSITION TESTIMONY  
OF KARL ONDERSMA**

To: Lynda E. Roesch  
Dinsmore & Shohl LLP  
1900 Chemed Center  
255 East Fifth Street  
Cincinnati, OH 45202

Applicant, Harbro, LLC., hereby services notice pursuant to 37 C.F.R. § 2.125 that  
it is filing the deposition testimony of Karl Ondersma taken November 28, 2005 with the  
Certificate of Witness Karl Ondersma and Applicant's Exhibit Nos. A – G.

Dated: December 13, 2005

  
Terence J. Linn  
VAN DYKE, GARDNER  
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2851 Charlevoix Drive SE  
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... on time, every time.

TO: Terence Lynn  
DATE: December 8, 2005  
IN RE: U.S. Playing Card Co. Vs. Harbro, LLC

DEPOSITION OF: Karl Ondersma

READING AND SIGNING

---

ENCLOSED IS A COPY OF THE CERTIFICATE OF WITNESS

REGARDING THE DEPOSITION OF KARL ONDERSMA

TAKEN ON THE 28th DAY NOVEMBER, 2005,

U.S. PLAYING CARD CO. VS. HARBRO, LLC

THERE WERE NO CORRECTIONS MADE TO THE TRANSCRIPT.

THANK YOU.

enc.

cc: Lynda Roesch, Esq.

# Karl T. Ondersma

## CERTIFICATE OF WITNESS

I, KARL T. ONDERSMA, the witness in the foregoing deposition, do hereby certify that I have read the deposition transcript of my testimony taken on the 28th day of November, 2005, and that, subject to the corrections indicated on the attached errata sheet, it is a true and correct transcript of my testimony as given.

Karl T. Ondersma

Karl T. Ondersma

Dated: 12/5/05

Donna J. Raaymakers

Notary Public in and for the

County of Kent. My commission

expires: August 2, 2006

DONNA J. RAAYMAKERS  
Notary Public, Kent County, MI  
My Commission Expires 8/2/2006

ERRATA SHEET FOR THE TRANSCRIPT OF:

Case Name: The U.S. Playing Card Co. vs. Harbro, LLC

Dep. Date: November 28, 2005

Deponent: Karl Ondersma

CORRECTIONS:

Pg.	Ln.	Now Reads	Should Read	Reasons Therefore
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		NO CHANGES	KTO	12/5/05
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Karl T. Ondersma  
Signature of Deponent

12/05/05

**Karl T. Ondersma**

1           IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
2           BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

3  
4 THE UNITED STATES PLAYING  
5 CARD COMPANY,

**ORIGINAL**

6                   Opposer,

Opposition No. 91162078

7 vs.

Serial No. 78/253,725

8 HARBRO, LLC,

9                   Applicant.

10  
11  
12  
13  
14                   DEPOSITION OF: KARL T. ONDERSMA

15  
16 DATE:           November 28, 2005

17 TIME:           10:00 a.m.

18 LOCATION:   VanDyke, Gardner, Linn & Burkhart, LLP  
19                   2851 Charlevoix Drive, S.E., Suite 207  
20                   Grand Rapids, Michigan

21 REPORTER:   Kelly M. Kane, RPR, CSR-1470  
22  
23  
24  
25

**Karl T. Ondersma**

1 APPEARANCES:

2

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4 BY: Terence J. Linn

5 2851 Charlevoix Drive, S.E., Suite 207

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8 On behalf of Applicant

9

10 DINSMORE & SHOHL, LLP

11 BY: Lynda E. Roesch (via telephone)

12 Kathy Przywara (via telephone)

13 1900 Chemed Center

14 255 East Fifth Street

15 Cincinnati, OH 45202

16 On behalf of Opposer

17

18

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20

21

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24

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Page 2

# Karl T. Ondersma

## I N D E X

1		
2	WITNESS:	PAGE
3	KARL T. ONDERSMA	
4	Examination by Mr. Linn	4
5	Examination by Ms. Roesch	15
6	Reexamination by Mr. Linn	31
7	Reexamination by Ms. Roesch	32

8

## E X H I B I T S

10	NO. PG.	IDENTIFICATION
11	A 6	Printouts from gamelandsports.com
12	B 8	Photocopy of cards box and card
13	C 8	Photocopy of bottom portion of cards box
14	D 11	Printouts from thegamesaloon.com
15	E 12	Printout from dollardays.com
16	F 13	Printout from touchofginger.com
17	G 15	Printouts from pokerchipwholesale.com
18		(Exhibits attached.)

19

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22

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24

25



**Karl T. Ondersma**

1 Grand Rapids, Michigan

2 November 28, 2005; 10:06 a.m.

3 \* \* \*

4 (Applicant's Exhibits A through G were marked for  
5 identification.)

6 KARL T. ONDERSMA,

7 having been first duly sworn to tell the truth, the whole  
8 truth, and nothing but the truth, was examined and testified  
9 as follows:

10 E X A M I N A T I O N

11 BY MR. LINN:

12 Q. What is your name?

13 A. Karl Thomas Ondersma.

14 Q. Where do you live?

15 A. 2530 Birchcrest, Grand Rapids, Michigan 49506.

16 Q. By whom are you employed?

17 A. The law firm of VanDyke, Gardner, Linn & Burkhart.

18 Q. What is your position at that firm?

19 A. I am an associate attorney.

20 Q. How long have you worked for VanDyke Gardner?

21 A. Just shy of two years.

22 Q. What were you doing prior to your employment by VanDyke  
23 Gardner?

24 A. I was in law school.

25 Q. I'm placing before you what is a photocopy of an exhibit

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**Karl T. Ondersma**

1 previously marked as Opposers's Exhibit 10. Have you seen  
2 that exhibit before?

3 A. Yes, I have.

4 Q. Under what circumstances have you seen Opposer's Exhibit 10  
5 most recently?

6 A. I saw it this morning briefly when we spoke, and previous to  
7 that, about a week and a half ago or a week ago, I also saw  
8 it.

9 Q. Under what circumstances did you see Opposer's Exhibit 10  
10 about a week or so ago?

11 A. It was provided to me, and I was requested to go to a web  
12 site listed at the bottom of Opposer's Exhibit 10 to look at  
13 their web site and determine if there was any contact or  
14 address information at the web site.

15 Q. Did you find any contact or address information on the web  
16 site that's shown on Exhibit 10?

17 A. I do not see any contact or address information on their  
18 physical location on Opposer's Exhibit 10.

19 Q. Okay. When you went on -- before we -- I'll withdraw that.

20 What does Exhibit 10 list as being the company this  
21 is the web site for?

22 A. GameLand Sports.

23 Q. When you went to the GameLand Sports web site after looking  
24 at Opposer's Exhibit 10, did you find any information on  
25 that web site that identifies either an address or a

**Karl T. Ondersma**

1 location for GameLand Sports?

2 A. Yes, I did.

3 MS. ROESCH: Objection to the foundation.

4 MR. LINN: Could you repeat that objection?

5 MS. ROESCH: Objection as to foundation.

6 I simply didn't hear you ask him if he actually  
7 went to the web site. You talked about him looking at  
8 Exhibit 10.

9 MR. LINN: Let's have the question read back just  
10 so we make sure we have a clear question and answer.

11 (Previous question and answer repeated.)

12 MS. ROESCH: Okay.

13 BY MR. LINN:

14 Q. I'm placing before you what has been marked as Applicant's  
15 Exhibit A.

16 MR. LINN: Ms. Roesch, do you have Applicant's  
17 Exhibit A?

18 MS. ROESCH: Yes, I do.

19 MR. LINN: Okay.

20 BY MR. LINN:

21 Q. Mr. Ondersma, I've placed before you what's been marked as  
22 Applicant's Exhibit A. Can you identify that, please?

23 A. Yes. It is web page printouts from the gamelandsports.com  
24 web site that I printed out last week.

25 Q. On the web page printouts that you made of Applicant's

## **Karl T. Ondersma**

1 Exhibit A, is there listed any address or location  
2 information for GameLand Sports?

3 A. Yes. On the first page of the exhibit, approximately in the  
4 middle/upper left corner area, there's a company address.

5 Q. What's the address?

6 A. GameLand Sports, 37095 Groesbeck Highway, Clinton Township,  
7 Michigan 48036.

8 Q. Was there any other information included on the GameLand  
9 Sports web site that you saw that would indicate an address  
10 or a location for GameLand Sports?

11 A. Yes. On the second page of Exhibit A there is a small map  
12 about right in the center showing an indication of a spade,  
13 indicating the particular location of GameLand Sports in  
14 Clinton Township.

15 Q. Can you tell us, just in general terms, where Clinton  
16 Township is in relation to other large cities or areas?

17 A. Clinton Township is a little bit north and west of Detroit,  
18 Michigan.

19 Q. Would it be fair to say that Clinton Township is a suburb of  
20 Detroit, Michigan?

21 A. Yes, it would be.

22 Q. Do you have any personal familiarity with GameLand Sports?

23 A. Yes. I traveled to there last summer.

24 Q. What did you do at GameLand Sports when you were there last  
25 summer?

## Karl T. Ondersma

1 A. I looked around the store a little bit, and I also purchased  
2 a deck of cards there.

3 Q. Approximately when were you in GameLand Sports last summer?

4 A. It was August 6, 2005. It was a Saturday, in the morning..

5 Q. How did you happen to go to GameLand Sports?

6 A. I have a brother that lives in the vicinity, in  
7 Grosse Pointe, Michigan, and myself and my family were  
8 traveling to visit my brother and his family for the  
9 weekend.

10 Q. What prompted you to go to GameLand Sports?

11 A. I had been discussing my weekend plans with another attorney  
12 in the office here, and he noted that it was in the vicinity  
13 of Clinton Township and asked me to go to GameLand Sports..

14 Q. Who was the other attorney?

15 A. Timothy Flory.

16 Q. I'm placing before you what has been marked as Applicant's  
17 Exhibits B and C.

18 MR. LINN: Ms. Roesch, do you have those?

19 MS. ROESCH: Hold on a second.

20 Yes, I do.

21 BY MR. LINN:

22 Q. Mr. Ondersma, could you identify Plaintiff's -- I'm sorry,  
23 I'll withdraw that.

24 Mr. Ondersma, could you identify Applicant's  
25 Exhibits B and C?

## Karl T. Ondersma

1 A. Yes, I can. Applicant's Exhibit B is a copy of the box  
2 containing the deck of cards that I purchased, and that is  
3 shown on the left; on the right in Applicant's Exhibit B is  
4 a copy of the -- one of the cards.

5 Q. And can you identify Exhibit C?

6 A. Exhibit C is a copy of the bottom portion of the box that  
7 contained the deck of cards that I purchased.

8 Q. And when you say you purchased, where did you purchase the  
9 deck of cards that is shown in Applicant's Exhibits B and C?

10 A. Applicant's Exhibits B and C show the deck of cards that I  
11 purchased at GameLand Sports.

12 Q. In what location?

13 A. In Clinton Township, Michigan.

14 Q. Is there any marking on the packaging for the deck of cards  
15 shown in Exhibits B and C that identifies a country of  
16 origin or manufacture?

17 A. Applicant's Exhibit C on the bottom, which shows the bottom  
18 portion of the box that the deck of cards came in, has an  
19 indication thereon that says "Made in China."

20 Q. I'm placing before you a photocopy of what has been  
21 previously marked as Opposer's Exhibit 12. Have you seen  
22 that before?

23 A. Yes. This was provided to me again approximately a week,  
24 week and a half ago, and I was asked to do some research,  
25 here again on the web site address that's listed on the

## Karl T. Ondersma

1 exhibit.

2 Q. What research were you asked to do with regard to the  
3 materials of Opposer's Exhibit 12?

4 A. I was asked to go to the web site and view the web site to  
5 determine if there were any address locations contained at  
6 the web site.

7 Q. Did you do that?

8 A. Yes, I did.

9 Q. Did you find any information listed on the web site that's  
10 reflected in Opposer's Exhibit 12 that includes either  
11 address or location information for that listing?

12 A. I'm sorry, on Exhibit 12 itself or when I went to the web  
13 site?

14 Q. Okay. Let me rephrase the question to make sure that we're  
15 clear.

16 Before I do that, what is the company or  
17 organization that Exhibit 12 is the web site for?

18 A. It appears to be called thegamesaloon.com.

19 Q. When you went onto the web site for thegamesaloon.com, which  
20 is partially shown in Opposer's Exhibit 12, did you find any  
21 information on that web site that would indicate an address  
22 or a location for the company The Game Saloon?

23 A. Yes, I did.

24 Q. And just to make it easier, I'll place before you what's  
25 been marked as Applicant's Exhibit D.

## Karl T. Ondersma

1 MR. LINN: Ms. Roesch, do you have that?

2 MS. ROESCH: Did you say D?

3 MR. LINN: D as in dog.

4 MS. ROESCH: Yes, I have it.

5 MR. LINN: Okay.

6 BY MR. LINN:

7 Q. I've placed before you what's been marked as Applicant's  
8 Exhibit D. Could you identify that, please?

9 A. Yes, this is a web page printout that I made last week from  
10 thegamesaloon.com when I visited the web site.

11 Q. Does Applicant's Exhibit D, that you made, include any  
12 information that's indicative of an address or location for  
13 The Game Saloon?

14 A. Yes, it does.

15 Q. And what is that, and where is that in Exhibit D?

16 A. On the second page of Exhibit D at the bottom it says,  
17 TheGameSaloon.com, 10809 Chimineas Avenue, Northridge,  
18 California 91326.

19 Q. I'm going to redirect you back to Opposer's Exhibit 12, and  
20 I'm going to point you to the fifth page of that exhibit.  
21 Can you briefly tell us what Exhibit 12, page 5, identifies  
22 as a company or a listing for that page?

23 A. It appears to be listing a web site called DollarDays. It's  
24 listed at the top and at the bottom. On the footer of the  
25 page it's -- the web address is www.dollardays.com.

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## Karl T. Ondersma

1 Q. Did you do anything with regard to Exhibit 12's listing at  
2 page 5 of this DollarDays web site information?

3 A. Yes, I also went to that web site.

4 Q. I'm placing before you what's been marked as Applicant's  
5 Exhibit E.

6 MR. LINN: Mrs. Roesch, do you have that?

7 MS. ROESCH: Yes.

8 BY MR. LINN:

9 Q. Mr. Ondersma, could you identify Applicant's Exhibit E?

10 A. It is a printout that I made when I went to the  
11 dollardays.com web site.

12 Q. When you went onto the DollarDays web site, a portion of  
13 which is shown in Applicant's Exhibit E, was there anything  
14 included on the web site that indicates an address or  
15 location for that company?

16 A. Yes, there is. In the middle of the page that I printed out  
17 it lists DollarDays International, LLC, 7575 East Redfield  
18 Road, Suite 129, Scottsdale, Arizona 85260.

19 Q. I'm now going to redirect you back to Opposer's Exhibit 12  
20 and specifically point to the seventh or last page of the  
21 exhibit. Can you tell us just generally what is shown there  
22 with regard to a company or a name of the source of that web  
23 site?

24 A. It appears to indicate that the source is touchofginger.com.

25 Q. Have you done anything with regard to investigation of the

**Karl T. Ondersma**

1        touchofginger.com web site?

2    A.    Yes.    When I was visiting thegamesaloon.com web site, I also  
3        went to the www.touchofginger.com web site as well.

4    Q.    When you went to the Touch of Ginger web site, did you see  
5        any information included on that web site that would  
6        indicate a location or address for that company?

7    A.    Yes, I did.

8    Q.    I'm placing before you what's been marked as Applicant's  
9        Exhibit F.

10                    MR. LINN:        Ms. Roesch, do you have that?

11                    MS. ROESCH:    Yes.

12    BY MR. LINN:

13    Q.    Mr. Ondersma, I've placed before you what's been marked as  
14        Applicant's Exhibit F. Will you identify that, please?

15    A.    Yes, I can. It is a web page printout of the  
16        touchofginger.com web site that I visited.

17    Q.    In the materials that are printed out here, that you printed  
18        out here for Applicant's Exhibit F, is there any information  
19        listed that would identify a location or address for Touch  
20        of Ginger?

21    A.    Yes, there is. On the right side of the page it lists a  
22        post address as Touch of Ginger, PO box 381, Cambridge,  
23        CB1, space, 3PP. And it also contains a telephone number..

24    Q.    I'm going to redirect you back to Opposer's Exhibit 12, the  
25        seventh or last page that has a copy of some information

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## Karl T. Ondersma

1 from the Touch of Ginger web site, and on that web site  
2 printout there's some price information. Do you see that?

3 A. Yes.

4 Q. Do you know what type of currency those prices are listed  
5 in?

6 A. It has the British pound symbol.

7 Q. When you look at Applicant's Exhibit F and there's the  
8 address information for Touch of Ginger, and it's Cambridge,  
9 what country do you believe that Cambridge is located in?

10 A. England. And I also believe that from the European listing  
11 of a telephone number, European-style format.

12 Q. Have you ever spent any time in Europe?

13 A. Yes, I lived in Germany for over a year.

14 Q. I'm placing before you what's been marked as Opposer's  
15 Exhibit -- or a photo -- I'll withdraw that.

16 I'm placing before you what's been previously  
17 marked as a photocopy of Opposer's Exhibit 15. Have you  
18 seen that exhibit before?

19 A. Yes, it was provided to me, as well, approximately a week  
20 and a half ago, and it lists a web site that I also visited;  
21 the web site is [www.pokerchipwholesale.com](http://www.pokerchipwholesale.com).

22 Q. When you visited the web site for [pokerchipwholesale.com](http://pokerchipwholesale.com),  
23 did you find any information listed on that web site that  
24 would indicate an address or location for  
25 [pokerchipwholesale.com](http://pokerchipwholesale.com)?

## Karl T. Ondersma

1 A. Yes, I did.

2 Q. I'm placing before you what's been marked as Applicant's  
3 Exhibit G.

4 MR. LINN: Ms. Roesch, do you have that?

5 MS. ROESCH: Yes, we do.

6 BY MR. LINN:

7 Q. Mr. Ondersma, I've placed before you what's been marked as  
8 Applicant's Exhibit G. Can you identify that, please?

9 A. Yes, they are pages of the www.pokerchipwholesale.com web  
10 site that I printed out last week.

11 Q. Included in Applicant's Exhibit G is there any information  
12 from the pokerchipwholesale.com web site that would indicate  
13 an address or location for that company?

14 A. Yes, there is. Approximately in the middle of the page it  
15 lists PokerChip Wholesale, 2668 South Grand Avenue,  
16 Santa Ana, California 92705.

17 MR. LINN: No further questions.

18 MS. ROESCH: Give me a second here to get  
19 organized.

20 MR. LINN: Sure. Take your time.

21 (Brief pause.)

22 E X A M I N A T I O N

23 BY MS. ROESCH:

24 Q. Mr. Ondersma -- is that how you say your name?

25 A. Yes.

## Karl T. Ondersma

1 Q. Okay. I'm Lynda Roesch, and I represent U.S. Playing Cards  
2 Company in this opposition, and I just have a few questions.

3 Can you tell me what your instructions were with  
4 respect to Applicant's Exhibit A?

5 A. In terms of how I got them or -- I'm not sure what your  
6 question is, I guess.

7 Q. Well, I'd like to know what you were asked to do that you  
8 found Exhibit A.

9 A. I was provided various exhibits, including Opposer's  
10 Exhibit 10, and I was asked to go to the web site and see if  
11 I could locate an address for the gamelandsports.com entity.

12 Q. Were you asked to do anything else?

13 A. No.

14 Q. Were you asked to see if there was any reference to  
15 Las Vegas on the web site?

16 A. No.

17 Q. Who gave you the directions?

18 A. Mr. Linn.

19 Q. Okay. Now, I believe you said that you were given various  
20 web sites. Were you given any web sites other than those  
21 that you've used as exhibits today?

22 A. I am not sure. I was given a stack, and I went to them; it  
23 may have included some others, but I can't be certain at  
24 this point.

25 Q. Do you have the results of those searches?

## **Karl T. Ondersma**

1 A. Other than what's been marked, I do not.

2 Q. When you say you do not, does that mean just sitting in  
3 front of you or that you didn't save the results of the  
4 searches?

5 A. I did not keep anything personally, no.

6 Q. Did you provide that information to anyone else?

7 A. To Mr. Linn.

8 Q. So you're saying it's possible that you had other web sites  
9 you visited that had other information on them that you've  
10 not used today?

11 A. Yeah, there may be.

12 Q. And would those web sites have been connected with  
13 Las Vegas?

14 A. I believe that they may have been associated with this same  
15 proceeding.

16 Q. Okay. Do you know if the actual address of the company for  
17 the web site may have been in Las Vegas?

18 A. I don't know.

19 Q. You said Mr. Linn gave you a stack of papers. What were  
20 those papers?

21 A. I believe that they were exhibits in this proceeding, such  
22 as Exhibit 10, 12, and 15 that we just reviewed.

23 Q. Were those the only exhibits you were given?

24 A. Again, there may have been some others, but I don't recall.

25 Q. Did you review, prior to your deposition, any of that

## Karl T. Ondersma

1 information?

2 A. No.

3 Q. And yet you told us you just did this search a week, week  
4 and a half ago?

5 A. Yes.

6 Q. Did you go to law school directly from college?

7 A. No, I did not.

8 Q. Did you spend time in Germany between?

9 A. Yes, I did. I worked for eight years for a company here in  
10 Grand Rapids, Michigan, called Diesel Technology, and -- I  
11 was an engineer there, and as part of my employment I was a  
12 resident engineer in Germany.

13 Q. Okay. So I take it your degree from college was in  
14 engineering?

15 A. Yes.

16 Q. What type of engineer?

17 A. Mechanical.

18 Q. As I understand then you worked for eight years prior to  
19 going back to law school?

20 A. That's correct. Approximately eight years.

21 Q. So based on that, I take it you have not worked at all in  
22 the gaming industry?

23 A. No.

24 Q. And I take it you've never worked in casinos?

25 A. No.

## Karl T. Ondersma

1 Q. And I understand then you would have never worked in  
2 Las Vegas either?

3 A. That is correct.

4 Q. And you've never worked in the playing card industry?

5 A. That is correct.

6 Q. And you've never worked in the game industry either?

7 A. That is correct.

8 Q. As opposed to gaming?

9 A. I'm sorry?

10 Q. You've never worked with toys and games either?

11 A. Only with my children.

12 Q. Okay, fair enough.

13 When you were given the exhibits or the stack of  
14 papers by Mr. Linn, were you asked to do any searches other  
15 than locating the web sites?

16 A. No.

17 Q. Do you have an understanding as to why you were asked to do  
18 those searches?

19 A. No.

20 Q. Okay. Do you have exhibits in front of you?

21 A. Yes, I do.

22 Q. If we could maybe just go back to -- I want to make sure I  
23 understand.

24 Exhibit A. Can you confirm for me that Exhibit A  
25 prints out as five pages?



## Karl T. Ondersma

- 1 A. Yes.
- 2 Q. So can we go through those one by one? I think the first  
3 page you talked about has the contact information for  
4 GameLand Sports; is that correct?
- 5 A. Yes.
- 6 Q. Okay. What's really the second printed page but says  
7 page 1 of 2, at least on mine --
- 8 A. The page with the map?
- 9 Q. Yes.
- 10 A. Uh-huh.
- 11 Q. Okay. I just wanted to confirm, that ends -- does the last  
12 line on that page say, "All of your favorite games can be  
13 found at GameLand Sports. You'll find card games, dice  
14 games, and board"?
- 15 A. Yes.
- 16 Q. Is that the end?
- 17 A. Yep.
- 18 Q. Okay. The next page then is page 2 of 2 at the top  
19 right-hand corner, and it does look like it ends -- there's  
20 a copyright notice that's there. Can you confirm that?
- 21 A. Yes.
- 22 Q. Okay. And then we come to what I would call the fourth page  
23 of this exhibit. Are you following me?
- 24 A. Yeah.
- 25 Q. Okay. And it now says page 1 of 2.

Page 20

## Karl T. Ondersma

- 1 A. Yes.
- 2 Q. Okay. How did you get to this page?
- 3 A. I clicked and linked on another page. I didn't print out  
4 everything that I viewed on the web site.
- 5 Q. So how did you know what to go look for and click through to  
6 or to go to other pages on the web site?
- 7 A. Well, the Opposer's Exhibit 10 that I was provided had, on  
8 the first page -- do you have that?
- 9 Q. Yes, I do.
- 10 A. It lists -- it shows a deck of cards, it says, "Welcome to  
11 Las Vegas Playing Cards - 2.99 each," and I printed out what  
12 I believed to be the same thing when I visited the web site,  
13 that page.
- 14 Q. Were you asked to do that?
- 15 A. I may have been. I believe I was.
- 16 Q. How did you decide what to print and what not to print?
- 17 A. Well, I had the Opposer's Exhibit 10 before me, and it had  
18 that deck of cards on that. And I printed that one out  
19 because it's also the one I purchased.
- 20 Q. Did Mr. Linn give you any instructions on what to print and  
21 what not to print?
- 22 A. He asked me to go and find the contact information, so I  
23 printed the contact information. And --
- 24 Q. Did -- I'm sorry, go ahead.
- 25 A. And I also printed out the deck of cards that I had

**Karl T. Ondersma**

1 purchased as well.

2 Q. Did you print anything else from this web site?

3 A. I don't -- if -- I don't believe I did. If I did, it was  
4 just extraneous in my view, so I don't -- don't have it  
5 here.

6 Q. What did you do with it?

7 A. If I had -- if I did print anything else out, I would have  
8 thrown it away.

9 Q. And then I just want to confirm that page 5 of the exhibit  
10 says in the top right-hand corner, page 2 of 2?

11 A. Mine does.

12 Q. Okay. And it says at the top of that page, "Welcome to  
13 Las Vegas Playing Cards - 2.99 each Product Detail"?

14 A. Yes.

15 Q. Can you read the paragraph underneath that?

16 A. These, quote, welcome to Las Vegas, close quote, playing  
17 cards are new and factory wrapped. These are a high-quality  
18 cards [sic] with a professional finish. These are also the  
19 same cards sold in many Las Vegas gift shops.

20 Q. Have you been to Las Vegas?

21 A. Yes, I have.

22 Q. Okay. Have you ever seen these cards for sale in a gift  
23 shop?

24 A. No.

25 Q. So do you know if this is true, if these are in the gift

## Karl T. Ondersma

1 shops or not?

2 A. I do not know.

3 Q. You have no reason to question whether it is or is not sold  
4 in the gift shops?

5 A. I have no idea.

6 Q. Have you ever seen these cards before you went to the web  
7 site?

8 A. Yes.

9 Q. Other than seeing them at GameLand Sports had you ever seen  
10 them before?

11 A. No, not that I'm aware of.

12 Q. Okay. So the only times you've ever seen the cards,  
13 "Welcome to --" I guess it's really "Welcome to Fabulous  
14 Las Vegas" -- is when you were at GameLand Sports and also  
15 when you were at the web site for GameLand Sports?

16 A. As far as I know, yes.

17 Q. Okay. Then going to Exhibit B, I want to make sure I  
18 understood what you said.

19 Did you tell us that this was a copy of the  
20 packaging of the deck and then one card of the deck laid  
21 next to that packaging?

22 A. Yes. Exhibit B on the left shows the box that the cards  
23 were in, the front of the box, and then on the right is one  
24 of the cards removed from the box.

25 Q. Okay. And then I understood that you picked up these cards

**Karl T. Ondersma**

1 at the direction of Mr. Flory?

2 A. Yes.

3 Q. What were the directions Mr. Flory gave you as far as  
4 picking up Exhibit B?

5 A. He asked me to go to GameLand Sports and to pick up this  
6 deck of cards.

7 Q. He gave you specific directions to pick up "Welcome to  
8 Fabulous Las Vegas, Nevada" playing cards?

9 A. Yes.

10 Well, I was provided -- I believe the way I had  
11 them identified was I was given a copy of -- whether it was  
12 a web page printout or a copy of this Opposer's Exhibit 10,  
13 I don't know, but I had something that had a picture of it.

14 Q. How many of these cards were available for sale at GameLand?

15 A. I don't recall; there were several decks on the rack.

16 Q. All right. Going to Exhibit C -- do you have that in front  
17 of you?

18 A. Yes, I do.

19 Q. Do you know what JJT, Inc., is?

20 A. No, I don't.

21 Q. Do you know if JJT, Inc., is located in Las Vegas, Nevada?

22 A. I do not know that.

23 Q. Okay. Could you go to Exhibit D, please?

24 A. I have it.

25 Q. Okay. Now, can you confirm for me that you have two pages?

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**Karl T. Ondersma**

1 I have page 1 of 3 and page 2 of 3 that printed out.

2 A. That's what I have.

3 Q. Okay. Do you know what the third page was?

4 A. It was probably just like a footer or something that didn't  
5 have any information on it, so that's why I got rid of it..

6 Q. Do you know that specifically?

7 A. I would say that that would be why I would have thrown it  
8 away. I would hope that I didn't throw away something that  
9 had substantive information on it.

10 Q. But do you know for sure, as you sit here today, whether or  
11 not it had any other information other than a footer on it?

12 A. I -- that is my best guess at the moment. I can't say for  
13 certain.

14 Q. That's just your guess.

15 Have you ever been to thegamesaloon.com?

16 A. You mean to --

17 Q. I'm sorry, The Game Saloon physical store?

18 A. No, I have not.

19 Q. Now, in terms of printing the information for  
20 thegamesaloon.com, were you given specific instructions for  
21 printing information from thegamesaloon.com?

22 A. I was just asked again to try and locate address  
23 information.

24 Q. And did you search any further on thegamesaloon.com other  
25 than to find the address information?

## Karl T. Ondersma

1 A. I perused the web site, and I -- to find the link "To  
2 Contact."

3 Q. Did you do anything else?

4 A. No.

5 Q. And other than this page 3 that you think was a footer, did  
6 you print anything else from thegamesaloon.com?

7 A. I may have, but I don't recall what it would have been.

8 Q. Go on to Exhibit E. I have Exhibit E as just one page; is  
9 that correct?

10 A. That's correct.

11 Q. Okay. But at the top right-hand corner of Exhibit E it says  
12 page 1 of 2.

13 A. Uh-huh.

14 Q. Is that correct also?

15 A. Yes.

16 Q. Okay. Did you ever see page 2 of this?

17 A. It likely printed out when I printed that page; but here  
18 again, in my view I must have considered that it contained  
19 extraneous information; the address was already listed on  
20 page 1, so I did not retain it.

21 Q. So your instructions to print were not to print everything  
22 but just whatever you deemed was necessary?

23 A. I was looking for address information.

24 Q. And so if it didn't have address information, you didn't  
25 think you were asked to print it?

## Karl T. Ondersma

- 1 A. I -- it would have printed because it prints automatically  
2 when you hit the print button, but I would have deemed it to  
3 be not necessary because the address was listed on the first  
4 page.
- 5 Q. So you felt that you had the discretion as to what you would  
6 save from what you printed and what you didn't?
- 7 A. Yes.
- 8 Q. Would you look at Exhibit G?
- 9 A. I have it.
- 10 Q. Okay. Now, I have two pages, two printed pages. Is that  
11 the sum of Exhibit G?
- 12 A. I have two printed pages as well.
- 13 Q. Okay. At the top right-hand corner of the first page,  
14 printed page, it says page 1 of 4. Can you confirm that?
- 15 A. Yes, they both do.
- 16 Q. Both pages say page 1 of 4? Okay.
- 17 Do you have any reason to believe that there  
18 weren't pages 2, 3, and 4 of this?
- 19 A. No, I have no reason to believe that there were not pages 2,  
20 3, and 4.
- 21 Q. Do I understand that you -- well, tell me how you decided  
22 what to print on these two pages.
- 23 A. Page 1 had -- well, the first page that we're looking at had  
24 the contact information, the address information --
- 25 Q. All right.

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## Karl T. Ondersma

- 1 A. -- so I printed that. And I believe that pages 2, 3, and 4  
2 contained extraneous information, so I would have discarded  
3 those, I did discard those. And regarding the second page,  
4 if you look at Opposer's Exhibit 15, you'll see the first  
5 page had a deck of playing cards. Do you have that?
- 6 Q. Yes.
- 7 A. And that is --
- 8 Q. How did you get to this page?
- 9 A. Again, there were some links that I would have clicked on  
10 under Products, or something like that, that I would have  
11 clicked on to link to that page.
- 12 Q. Okay. Were you asked to click onto a product for this web  
13 site?
- 14 A. Yes.
- 15 Q. And why were you asked to do that?
- 16 A. I don't know.
- 17 Q. Do you know what the issue is in this proceeding?
- 18 A. I know it's a trademark registration, but beyond that I  
19 don't know the details.
- 20 Q. Okay. So when we get to the second printed page of  
21 Exhibit G, what I want to know is, is this a new page 1  
22 of 4?
- 23 A. (No response.)
- 24 Q. Do you understand my question?
- 25 A. Well, it would have been a different area of the web site..

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- 1 Q. So in other words, the first page of Exhibit G had a 2, 3,  
2 and 4, and the second page had a 2, 3, and 4?
- 3 A. That's correct.
- 4 Q. Okay. Do you see the item names next to the words Item  
5 Name? Do you see that under Product Details?
- 6 A. Yes.
- 7 Q. Okay. And this says Treasure Island Casino Cards. Do you  
8 see that?
- 9 A. Yes.
- 10 Q. Do you know where Treasure Island Casino is?
- 11 A. I know -- I'm quite sure that there's a Treasure Island  
12 Casino in Las Vegas.
- 13 Q. Okay. And do you understand what this product is?
- 14 A. It's a deck of cards. Beyond that, are you asking?
- 15 Q. Yes.
- 16 A. I mean, I can read -- right now I'm reading this paragraph.
- 17 Q. Okay. Are you familiar with canceled casino cards?
- 18 A. Vaguely, yes.
- 19 Q. What's your understanding?
- 20 A. I believe that casinos, after they have used cards on a  
21 table after a period of time, they mark them in some manner,  
22 destroy them or -- so that they can't be used in the casino  
23 again, but then they do offer them for sale.
- 24 Q. And do you know if there is a market for that?
- 25 A. I don't know.

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1 Q. Do you know if there were any other casinos listed on this  
2 web page?

3 A. I don't -- I can't say for certain.

4 Q. Do you know if there were other casino canceled cards for  
5 sale at this web site?

6 A. I can't say for certain. There may have been.

7 Q. Do you know if there were canceled cards from Las Vegas  
8 casinos available at other web sites --

9 A. I --

10 Q. -- besides this one?

11 A. I don't know.

12 Q. Did you do a search for that?

13 A. That's not what I was looking for.

14 Q. My question is did you do a search for it though.

15 A. A search of particular web sites, or like a Google search,  
16 or --

17 Q. Did you search for canceled casino cards?

18 A. No.

19 Q. Did you do a Google search for Las Vegas?

20 A. No, I did not.

21 MS. ROESCH: Give me a couple more seconds here.

22 (Brief pause.)

23 BY MS. ROESCH:

24 Q. You said earlier that Mr. Linn had given you a stack of  
25 papers. Did you retain those?

## Karl T. Ondersma

1 A. No.

2 Q. What did you do with them?

3 A. After I printed the web site pages and clipped them  
4 together, I gave everything back to Mr. Linn.

5 MS. ROESCH: Okay. I don't have anything further  
6 at this point.

7 R E E X A M I N A T I O N

8 BY MR. LINN:

9 Q. Mr. Ondersma, if you look at Opposer's Exhibit 15 and  
10 compare it to Applicant's Exhibit G, if you turn to the  
11 second page of Applicant's Exhibit G -- do you see that?

12 A. Yes.

13 Q. At the top of the second page of Applicant's Exhibit G it  
14 lists page 1 of 4; is that correct?

15 A. That is correct.

16 Q. Now, the first three pages of Applicant's -- I'm sorry,  
17 withdraw that.

18 The first three pages of Opposer's Exhibit 15 are  
19 marked as page 1 of 3, 2 of 3, and 3 of 3. Do you see that?

20 A. Yes, I do.

21 Q. Do you believe that there's any relationship between the  
22 first three pages of Opposer's Exhibit 15 and the four pages  
23 that printed out when you printed this second page of  
24 Applicant's Exhibit G?

25 A. Applicant's Exhibit G is printed in landscape format, such

**Karl T. Ondersma**

1       that the printing runs left to right along the length of the  
2       11 inch, 8 1/2 by 11 paper; whereas, Opposer's Exhibit 15 is  
3       printed in portrait version, such that the printing runs  
4       from left to right across the narrower 8 1/2 inch width of  
5       the 8 1/2 by 11 paper.

6   Q.    When you print it in portrait -- look at the right-hand  
7       margin of Opposer's Exhibit 15 -- what happens?

8   A.    It cuts off portions of the page.

9   Q.    Looking at Opposer's Exhibit 15, pages 2 and 3, do you  
10       believe those reflect information or the materials that were  
11       printed out when you printed out the second page of  
12       Applicant's Exhibit G?

13   A.    Yes, I do.

14   Q.    And looking at Opposer's Exhibit 15, what prompted you to  
15       discard the second and third pages, and in your case the  
16       fourth page, when you printed the second page of Applicant's  
17       Exhibit G?

18   A.    Besides extraneous -- what I viewed to be extraneous  
19       information on the column on the left and some footer  
20       information, there were no more product details information  
21       on those pages.

22                   MR. LINN:     No further questions.

23                               R E E X A M I N A T I O N

24   BY MS. ROESCH:

25   Q.    Going to Exhibit 15, Mr. Ondersma, can you look under

## Karl T. Ondersma

1 Playing Cards on the left-hand column on the first page?

2 A. Yes.

3 Q. Do you see Bellagio Casino Playing Cards?

4 A. Yes.

5 Q. Do you know where the Bellagio Casino is?

6 A. There is a Bellagio Casino in Las Vegas.

7 Q. And isn't there a Mirage Casino in Las Vegas as well?

8 A. Yes, I believe so.

9 Q. And isn't there a Palms Casino in Las Vegas?

10 A. I believe so.

11 Q. And isn't it true that the Official World Poker Tour is  
12 played in Las Vegas as well?

13 A. I have no idea.

14 MS. ROESCH: Nothing further.

15 MR. LINN: No further questions.

16 MS. ROESCH: Okay. You're going to provide us with  
17 a copy of this transcript?

18 MR. LINN: That's correct.

19 MS. ROESCH: Okay.

20 MR. LINN: We are going to have the witness read  
21 and sign.

22 MS. ROESCH: That's fine.

23 MR. LINN: And we will be providing a copy of the  
24 transcript, I think we said, after the witness reads and  
25 signs, as well as filing it.

**Karl T. Ondersma**

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MS. ROESCH: Okay.

(Deposition concluded at 10:59 a.m.)

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CERTIFICATE

STATE OF MICHIGAN )  
 ) SS  
COUNTY OF KENT )

I, Kelly M. Kane, Notary Public in and for the County of Kent, State of Michigan, do hereby certify that the foregoing deposition was taken before me on November 28, 2005, at 10:06 a.m. Said witness was duly sworn by me to tell the truth, the whole truth, and nothing but the truth, and thereupon was examined and testified in the foregoing deposition. Adverse parties were present via telephone. The officer signed below was not disqualified as specified in Rule 28 of the Federal Rules of Civil Procedure.

I further certify that this deposition was taken in shorthand by me and transcribed with the aid of a computer and that it is a true and correct transcript.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of December, 2005.

*Kelly M. Kane*

Kelly M. Kane, CSR-1470, RPR and Notary Public in and for the County of Kent, State of Michigan.. My commission expires: 11-17-07.

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# Karl T. Ondersma

## CERTIFICATE OF WITNESS

I, KARL T. ONDERSMA, the witness in the foregoing deposition, do hereby certify that I have read the deposition transcript of my testimony taken on the 28th day of November, 2005, and that, subject to the corrections indicated on the attached errata sheet, it is a true and correct transcript of my testimony as given.

\_\_\_\_\_  
Karl T. Ondersma

Dated: \_\_\_\_\_

\_\_\_\_\_  
Notary Public in and for the  
County of \_\_\_\_\_. My commission  
expires: \_\_\_\_\_

# Karl T. Ondersma

<p><b>A</b></p> <p>about 5:7,10 6:7 7:12 20:3 across 32:4 actual 17:16 actually 6:6 address 5:14,15,17 5:25 7:1,4,5,9 9:25 10:5,11,21 11:12,25 12:14 13:6,19,22 14:8 14:24 15:13 16:11 17:16 25:22,25 26:19,23,24 27:3 27:24 Adverse 35:12 after 5:23 29:20,21 31:3 33:24 again 9:23,25 17:24 25:22 26:18 28:9 29:23 ago 5:7,7,10 9:24 14:20 18:4 ahead 21:24 aid 35:16 along 32:1 already 26:19 Ana 15:16 another 8:11 21:3 answer 6:10,11 anyone 17:6 anything 12:1,13,25 16:12 17:5 22:2,7 26:3,6 31:5 APPEAL 1:2 APPEARANCES 2:1 appears 10:18 11:23 12:24 Applicant 1:9 2:8 Applicant's 4:4 6:14 6:16,22,25 8:16 8:24 9:1,3,9,10,17 10:25 11:7,11 12:4,9,13 13:8,14 13:18 14:7 15:2,8 15:11 16:4 31:10 31:11,13,16,24,25 32:12,16 approximately 7:3 8:3 9:23 14:19 15:14 18:20 area 7:4 28:25 areas 7:16 Arizona 12:18</p>	<p>around 8:1 asked 8:13 9:24 10:2,4 16:7,10,12 16:14 19:14,17 21:14,22 24:5 25:22 26:25 28:12 28:15 asking 29:14 associate 4:19 associated 17:14 attached 3:18 36:7 attorney 4:19 8:11 8:14 August 8:4 automatically 27:1 available 24:14 30:8 Avenue 11:17 15:15 aware 23:11 away 22:8 25:8,8 a.m 1:17 4:2 34:2 35:9</p> <p><b>B</b></p> <p>B 3:9,12 8:17,25 9:1 9:3,9,10,15 23:17 23:22 24:4 back 6:9 11:19 12:19 13:24 18:19 19:22 31:4 based 18:21 before 1:2 4:25 5:2 5:19 6:14,21 8:16 9:20,22 10:16,24 11:7 12:4 13:8,13 14:14,16,18 15:2 15:7 21:17 23:6 23:10 35:8 behalf 2:8,16 being 5:20 believe 14:9,10 16:19 17:14,21 21:15 22:3 24:10 27:17,19 28:1 29:20 31:21 32:10 33:8,10 believed 21:12 Bellagio 33:3,5,6 below 35:13 besides 30:10 32:18 best 25:12 between 18:8 31:21 beyond 28:18 29:14 Birchcrest 4:15 bit 7:17 8:1 board 1:2 20:14</p>	<p>both 27:15,16 bottom 3:13 5:12 9:6,17,17 11:16 11:24 box 2:6 3:12,13 9:1 9:6,18 13:22 23:22,23,24 Brief 15:21 30:22 briefly 5:6 11:21 British 14:6 brother 8:6,8 Burkhart 1:18 2:3 4:17 button 27:2</p> <p><b>C</b></p> <p>C 3:13 8:17,25 9:5,6 9:9,10,15,17 24:16 California 11:18 15:16 call 20:22 called 10:18 11:23 18:10 Cambridge 13:22 14:8,9 came 9:18 canceled 29:17 30:4 30:7,17 card 1:5 3:12 19:4 20:13 23:20 cards 3:12,13 8:2 9:2,4,7,9,10,14,18 16:1 21:10,11,18 21:25 22:13,17,18 22:19,22 23:6,12 23:22,24,25 24:6 24:8,14 28:5 29:7 29:14,17,20 30:4 30:7,17 33:1,3 case 32:15 casino 29:7,10,12,17 29:22 30:4,17 33:3,5,6,7,9 casinos 18:24 29:20 30:1,8 CB1 13:23 center 2:13 7:12 certain 16:23 25:13 30:3,6 CERTIFICATE 35:1 36:1 certify 35:7,15 36:4 Charlevoix 1:19 2:5 Chemed 2:13</p>	<p>children 19:11 Chimineas 11:17 China 9:19 Cincinnati 2:15 circumstances 5:4,9 cities 7:16 Civil 35:14 clear 6:10 10:15 click 21:5 28:12 clicked 21:3 28:9,11 Clinton 7:6,14,15 7:17,19 8:13 9:13 clipped 31:3 close 22:16 college 18:6,13 column 32:19 33:1 come 20:22 commission 35:25 36:16 company 1:5 5:20 7:4 10:16,22 11:22 12:15,22 13:6 15:13 16:2 17:16 18:9 compare 31:10 computer 35:17 concluded 34:2 confirm 19:24 20:11 20:20 22:9 24:25 27:14 connected 17:12 considered 26:18 contact 5:13,15,17 20:3 21:22,23 26:2 27:24 contained 9:7 10:5 26:18 28:2 containing 9:2 contains 13:23 copy 9:1,4,6 13:25 23:19 24:11,12 33:17,23 copyright 20:20 corner 7:4 20:19 22:10 26:11 27:13 correct 18:20 19:3,5 19:7 20:4 26:9,10 26:14 29:3 31:14 31:15 33:18 35:17 36:8 corrections 36:6 country 9:15 14:9 County 35:4,7,24 36:16 couple 30:21</p>	<p>CSR-1470 1:21 35:22 currency 14:4 cuts 32:8</p> <p><b>D</b></p> <p>D 3:1,14 10:25 11:2 11:3,8,11,15,16 24:23 DATE 1:16 Dated 36:12 day 35:19 36:6 December 35:19 decide 21:16 decided 27:21 deck 8:2 9:2,7,9,10 9:14,18 21:10,18 21:25 23:20,20 24:6 28:5 29:14 decks 24:15 deemed 26:22 27:2 degree 18:13 deposition 1:14 17:25 34:2 35:8 35:12,15 36:4,5 destroy 29:22 Detail 22:13 details 28:19 29:5 32:20 determine 5:13 10:5 Detroit 7:17,20 dice 20:13 Diesel 18:10 different 28:25 DINSMORE 2:10 direction 24:1 directions 16:17 24:3,7 directly 18:6 discard 28:3 32:15 discarded 28:2 discretion 27:5 discussing 8:11 disqualified 35:13 dog 11:3 doing 4:22 DollarDays 11:23 12:2,12,17 dollardays.com 3:15 12:11 done 12:25 Drive 1:19 2:5 duly 4:7 35:9 DYKE 2:3</p>
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# Karl T. Ondersma

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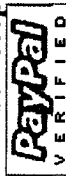
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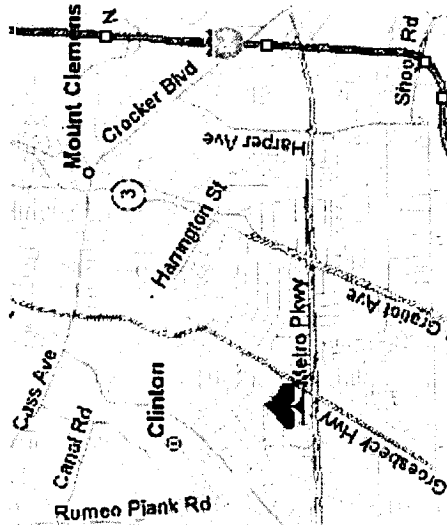


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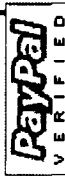
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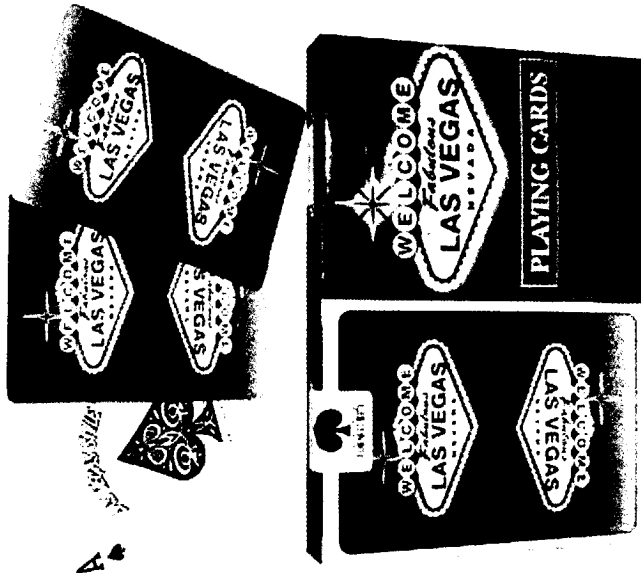
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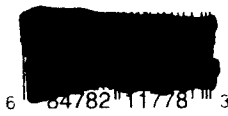
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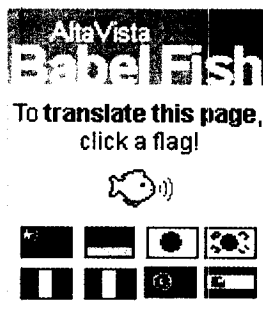
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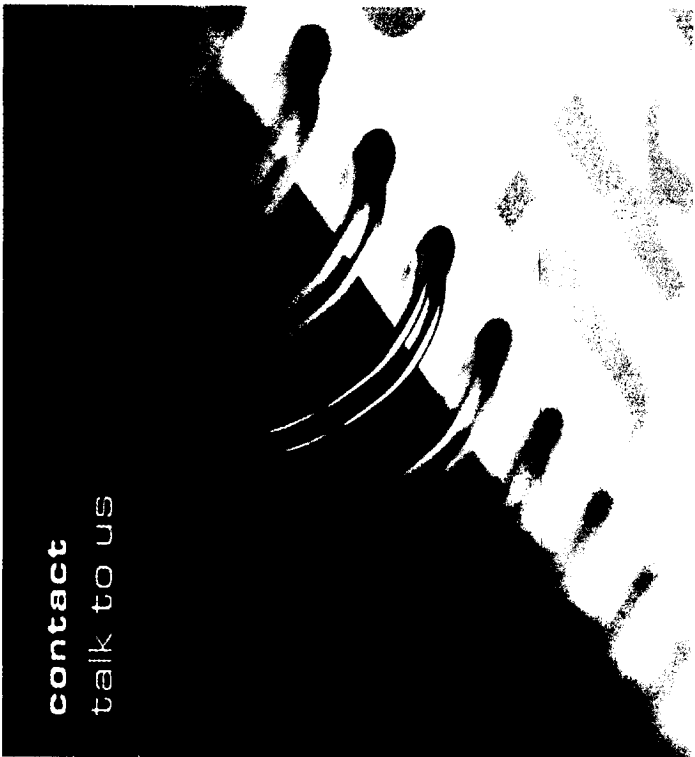
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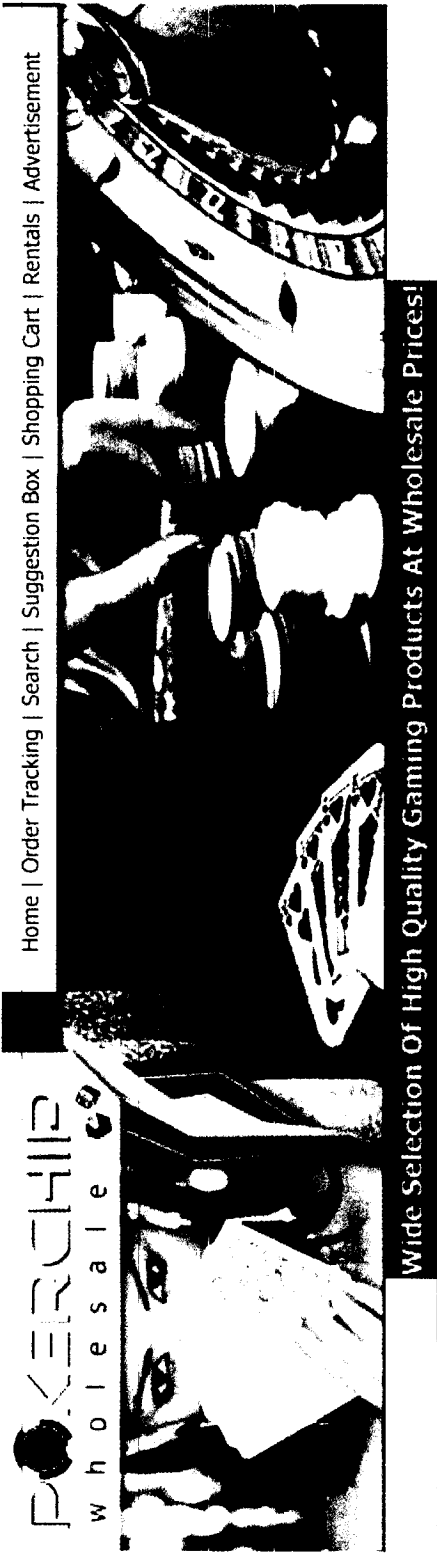
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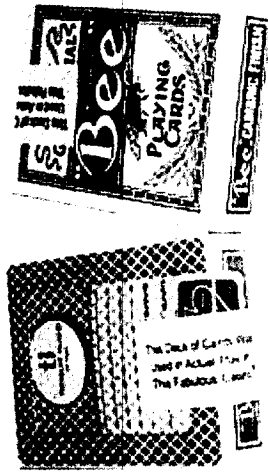
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